

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeene G. Kelly.

Houston Hub Storage and Transportation, L.P. Docket No. CP06-144-000

ORDER GRANTING EXEMPTION FOR TEMPORARY ACTS AND OPERATIONS

(Issued May 24, 2006)

1. On April 24, 2006, Houston Hub Storage and Transportation, L.P. (Houston Hub) filed a petition pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure.¹ Houston Hub requests an exemption, as provided in section 7(c) (1) (B) of the Natural Gas Act (NGA),² from the certificate requirements of NGA section 7(c) to drill two water wells, two disposal wells, and one salt well to determine the feasibility of developing a natural gas storage facility in Liberty County, Texas.³

2. We find it is in the public interest to grant Houston Hub's requested exemption for the proposed activities, subject to the conditions herein, to facilitate the development of storage facilities.

Proposed Activities

3. Houston Hub seeks an exemption from NGA section 7(c) certificate requirements to explore and assess the technical and economic feasibility of developing an underground natural gas storage facility in Liberty County, Texas. Houston Hub owns, or has under earnest money contract, certain surface and subsurface rights to conduct drilling and testing operations on the Dayton Dome. Specifically Houston Hub's proposed activities would be conducted on (a) an approximately 167 acre tract of land

¹ 18 C.F.R. § 385.207 (2005)

² 15 U.S.C. § 717(c)(1)(b).

³ Section 7(c)(1)(B) of the NGA permits the Commission to exempt "temporary acts or operations for which the issuance of a certificate will not be required in the public interest."

situated in the H. & T.C.R.R. Survey No. 135, A-256 (Cavern Tract) and (b) an approximately 420 acre tract of land, about one-half mile east of the Cavern Tract, situated primarily in the H. & T.C.R.R. Survey No. 137, A-255 (Water Tract). Both tracts of land are located in Liberty County, Texas, approximately 5.8 miles northeast of the town of Dayton, Texas.

4. Houston Hub requests an exemption from NGA section 7(c) certificate requirements in order to drill two water wells on the Water Tract to a depth of approximately 3,000 feet to test for the availability of water and for hydrological soundness; two disposal wells on the Water Tract to a depth of approximately 7,000 feet to evaluate and test the potential disposal zones of the mined brine; and one salt test well on the Cavern Tract to a depth of approximately 5,700 feet in order to identify the top of salt and to allow for testing of the salt at different depth intervals.⁴ Drilling of the disposal and salt test wells will be done in accordance with the rules and regulations of the Railroad Commission of Texas and the Texas Commission of Environmental Quality. Drilling of the water wells will be done in accordance with the rules and regulations of the Texas Department of Licensing and Regulation and under the supervision of a Texas licensed water well driller.

Notice and Intervention

5. Notice of Houston Hub's petition was published in the *Federal Register* on April 11, 2006 (71 *Fed. Reg.* 26,759), with comments, protests, and interventions due on or before May 10, 2006. No timely notices, motions to intervene, or protests in opposition were filed.

Discussion

6. Houston Hub's proposed activities are a necessary preliminary phase in the development and construction of a natural gas storage facility. Depending on the outcome of tests, salt caverns for the storage of natural gas may or may not be developed. We therefore consider the proposed activities as a necessary phase in the construction of a jurisdictional storage facility. As such, the proposed activities are subject to the certificate requirements of NGA section 7(c). However, pursuant to NGA section 7(c) (1) (B), if we find it in the public interest, we may exempt certain temporary acts or operations from the certificate requirement that would otherwise apply. Previously, we

⁴ Houston Hub requests expedited treatment of its petition, so that it can prepare the site location and commence well drilling and testing activities to meet the proposed development schedule.

have granted exemptions to allow operations of a temporary nature that have no effects on the ratepayer, on the quality of service provided by a pipeline, or on the public as a whole.⁵

8. Houston Hub is not proposing to construct or operate a natural gas storage facility at this time, and it is not proposing to construct any permanent above-ground natural gas facilities, pipelines or compressors or to inject or withdraw gas, although its proposed activities may yield wells that could be incorporated into a jurisdictional facility. No jurisdictional service will be rendered from the well without Commission authorization. The certificate authorization exemption will be used solely for discrete exploratory activities to obtain geological and engineering data concerning the property.

9. As proposed by Houston Hub in its application, its authorization will be conditioned on its performing all activities in compliance with the same environmental conditions that apply to natural gas companies' activities under their Part 157 blanket certificates, as set forth in section 157.206(b) of the Commission's regulations.

10. Under the circumstances described in Houston Hub's petition, we find that the proposed activities constitute temporary acts or operations within the meaning of NGA section 7(c)(1)(B), and we find it in the public interest to exempt the proposed activities from the certificate requirements of NGA section 7(c). We acknowledge the potential benefit a new storage facility could provide in that area. Further, we find that without performing the proposed activities, Houston Hub cannot make an informed business and engineering decision regarding the feasibility of developing a new storage complex, which would allow Houston Hub to serve better the growing gas demand needs of its customers.

11. In view of the above, we will exempt Houston Hub from our NGA section 7 certificate requirements as to the activities specified herein, subject to the conditions set forth below. The certificate exemption granted herein is without prejudice to any decision the Commission may make regarding any application Houston Hub may file for authorization for a storage project at the site or related pipeline construction.

12. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the petition submitted in support of the authorization sought herein, and upon consideration of the record,

⁵ See, e.g., *El Paso Natural Gas Company*, 114 FERC ¶ 61,341 (2006); *Desert Crossing Gas Storage and Transportation System LLC*, 98 FERC ¶ 61,277 (2002); *Copper Eagle Gas Storage L.L.C.*, 97 FERC ¶ 62,193 (2001); and *Central New York Oil and Gas Company LLC*, 89 FERC ¶ 61,006 (1999).

The Commission orders:

(A) Upon the terms and conditions of this order pursuant to NGA section 7(c)(1)(B), Houston Hub is granted an exemption from NGA section 7 certificate requirements to undertake the activities specified in this order and in Houston Hub's petition. This exemption is effective upon issuance of this order. The authorized drilling and testing activities shall be completed within one year of the date of this order.

(B) Houston Hub shall notify the Commission within 10 days after commencing activities within the exemption granted in Ordering Paragraph (A). Houston Hub shall allow inspection by Commission staff at any time.

(C) Houston Hub shall comply with the environmental requirements of section 157.206(b) of the Commission's regulations in implementing the drilling and testing activities.

(D) The exemption granted in Ordering Paragraph (A) may be revoked if the actions are determined to be inconsistent with this order or with state or federal law and regulations. The Commission may halt work authorized under this exemption until any required consistency determination is completed.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.